

Application No. 10/709,626
Amendment dated September 9, 2005
Reply to Office Action of June 13, 2005

Docket No.: 12051-00001-US

REMARKS

Applicant requests reconsideration of the application as amended. Claims 1-8 and 10-18 are pending. Claim 9 has been canceled without prejudice. Claims 1 and 18 are amended. Support for the subject matter added to claims 1 and 18 is found in the specification *inter alia* at paragraphs [0006], [0027] and [0029].

Claims 1, 3, 8 and 17 were rejected under 35 U.S.C. 102(e) as anticipated by U.S. Pat. No. 6,845,701 ("Drackett"). Applicant respectfully traverses.

Applicant has disclosed and claimed a hand-held ballistic shield. Applicant's claims are consistent with the first common dictionary definition of "shield"¹. Claim 1 has been amended to clarify that the handle associated with the shield is for carrying the shield or holding the shield in front of a portion of the user's body. Such amendment is supported by the specification *inter alia* at paragraphs [0006] and [0027]. In contrast, Drackett shows a mobile enclosure with a frame supported on a pair of wheels. The Drackett apparatus is not hand-held. Drackett expressly differentiates his mobile enclosure from hand-held shields (*See* Col. 2, lines 2-10).

Drackett does not anticipate claim 1 as amended because Drackett lacks a handle for carrying the shield or holding the shield in front of at least a portion of the user's body. The push rod handle 37 in Drackett is provided only for pushing the enclosure shield forward or backward, but the framework 11 is supported on wheels 12. The occupant of the enclosure does not hold up the enclosure with push rod handle 37. The occupant of the enclosure does not hold push rod handle 37 when discharging the rifle/firearm. This is evident from FIG. 3. With Applicant's claimed shield, the user is simultaneously capable of holding the shield of the invention in a protective position by hand while discharging a weapon (firearm) mounted to the shield. Drackett's structure does not have such capability. Moreover, Drackett's enclosure takes

1. ¹ "shield": "1. An article of protective armor ... carried on the forearm to ward off blows or missiles." *Am. Heritage Dictionary*; or: "1. A broad piece of armor made of rigid material and strapped to the arm or carried in the hand for protection against hurled or thrust weapons." *See Dictionary.com*.

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up significant volume/space and could not be readily passed from user to user. Accordingly, claim 1 patentably distinguishes from Drackett and should be allowed. For the same reasons, all claims depending from claim 1 also distinguish from Drackett and should be allowed.

Claims 1, 2, 4, 7, 9, 13, 14 and 16 were rejected as anticipated under 35 U.S.C. 102(b) by U.S. Pat. No. 4,153,927 (Owens). Applicant traverses the rejection.

Claim 1 as amended distinguishes from Owens. Owens shows a multi-function clipboard with a gun 120 capable of firing out from the side of the clipboard in a direction substantially parallel to the writing surface (See FIG. 1 in Owens). In contrast, first, Applicant's Claim 1 requires a viewing window through the shield. The Examiner contends a user could view through the material of the clipboard itself, but this is an overly strained reading of Owens. The Owens clipboard includes a writing surface and a clip 52 to hold papers on such surface. The clipboard also includes multiple compartments with accessories like a tape recorder 540 or a camera 550, and batteries or mace canisters. These surveillance devices and protection devices would be concealed discretely. Hence it is not likely the clipboard would be made from a clear see-through material. When in use, the clipboard simply would not function as a window.

Second, Owens does not anticipate claim 1 because the clipboard lacks a handle. Owens has no handle associated with such clipboard for carrying the clipboard. Claim 1 as amended requires a handle associated with the shield for carrying the shield.

Third, Owens does not anticipate claim 1 because the gun 120 in Owens discharges in a direction that is parallel to the writing surface. Owens does not show a firearm mounted to a shield for discharge in a direction substantially perpendicular to the front face of such shield, e.g., at an angle outwardly from the front face. When the Owens' clipboard is turned to direct the gun barrel toward a target in front of the user, the clipboard no longer serves a shielding function for the user. Turning the front face of the clipboard means the clipboard is no longer protecting the user's face.

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For at least these reasons, claim 1, and all claims depending from claim 1, distinguish over Owens and should be allowed.

Claims 1 and 10 to 12 were rejected as anticipated under 35 U.S.C. 102(b) by U.S. Pat. No. 6,435,071 (Campbell). Applicant traverses the rejection. Campbell shows a maneuverable vehicle to navigate through landmines. Campbell does not anticipate claim 1 as amended. Campbell does not show a hand-held or portable ballistic shield that has a handle associated with the shield for carrying the shield or holding the shield in front of at least a portion of a user's body. In Campbell, the user pilots a vehicle, which vehicle is supported by a vehicle frame and wheels 27. Claim 1 and all claims depending from claim 1 thus distinguish from Campbell.

Claim 18 was rejected under 35 U.S.C. 103(a) as obvious over U.S. Pat. No. 1,747,142 (Campbell '142) in view of U.S. Pat. No. 2,457,929 (Slockbower). Applicant traverses the rejection. The Examiner has failed to establish a prima facie case of obviousness. Claim 18 as amended requires a portable ballistic shield that has a handle associated with the shield for carrying the shield or for holding the shield in front of a user's body. In contrast, Campbell '142 relates to an armored motor vehicle that is supported by a vehicle body and wheels mounted on axles attached to said vehicle body. The vehicle is not a hand-held shield. Slockbower was cited as showing a type of disabling sensor for use with a shotgun. Slockbower does not relate to hand-held or portable ballistic shields or to shields that incorporate integral firearms. As such, Slockbower does not fill the gaps in the disclosure of Campbell '142. Moreover, persons of skill in the art would not be disposed to combine a reference related to an armored vehicle with a reference related to a shotgun. Accordingly, claim 18 patentably distinguishes from these references, whether taken alone or combined as proposed by the Examiner.

Claims 1 and 6 were rejected under 35 U.S.C. 103(a) as obvious over U.S. Pat. No. 6,272,781 (Resnick) in view of U.S. Pat. No. 6,098,196 (Logan). Applicant traverses the rejection. The Examiner has failed to establish a prima facie case of obviousness. Claim 1 as amended requires a hand-held ballistic shield with a handle for carrying the shield or holding the shield in front of a portion of a user's body. The shield includes a viewing window therethrough. The shield further includes a firearm that is mounted for discharge in a direction outwardly from

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the front face of the shield. In contrast, Resnick concerns a garment, such as a vest, that is worn around the body. Such garment has no handle for carrying or holding the shield. Such garment has no viewing window. The Examiner attempts to fill the gaps in the disclosure of Resnick by combining with Logan. Logan shows a bullet-proof vest, which is another garment and not a shield. Such vest includes a neck/face protecting ballistic shield that may be extended in a telescoping fashion out of a pouch 22 in the vest to protect the wearer's neck or face. But even if the telescoping part in Logan could be considered equivalent to a window through a ballistic shield, which Applicant respectfully disputes, Logan still lacks a handle for carrying a shield. Thus, the purported combination of Resnick and Logan does not result in a portable, or hand-held ballistic shield with an integral firearm that may be discharged outwardly from such shield. The Examiner improperly equates body armor garments with the ballistic shields that have been claimed by the present Applicant. Ballistic shields have advantages over "body armor" or garments like bullet proof vests in that hand-held ballistic shields are portable, may be passed quickly to another user, may shield more than one person at a time, and may continue to have a shielding function even if a first user is injured or killed. Claim 1 and all claims depending from claim 1 should be allowed.

Claim 5 was rejected under 35 U.S.C. 103(a) as obvious over Owens in view of U.S. Pat. No. 3,766,865 (Cutler). Applicant traverses the rejection. As set forth above, Owens does not show a ballistic shield that has a handle, that includes a viewing window and that has a firearm mounted to discharge in a direction outwardly from the front face of the shield. Cutler does not fill all of these gaps in the disclosure of Owens. Cutler shows a clipboard that doubles as a shield. The Examiner cites Cutler for its teaching of a hand grip 25, which could serve as a handle. But Cutler still does not include a viewing window or a firearm that is dischargeably mounted to a ballistic shield. Accordingly, Claim 1 as amended and all claims depending from claim 1, including claim 5, patentably distinguish from this purported combination.

Claim 15 was rejected under 35 U.S.C. 103(a) as obvious over U.S. Pat. No. 5,060,554 (Aharon). Applicant traverse the rejection. Aharon shows a tank with a gun mounted on a platform. The tank is not a hand-held ballistic shield that includes a handle for carrying the shield or holding the shield in front of at least a portion of a user's body. The Examiner's

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reading of the steering wheel for the tank in Aharon as equivalent to the handle of Applicant's ballistic shield is overly strained. The occupant of the tank in Aharon does not hold up the tank by the steering wheel. Rather, the tank is supported by wheels and tracks (not numbered in FIG. 1). Claim 1 and all claims depending from claim 1, including claim 15, distinguish from Aharon and should be allowed.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12051-00001-US from which the undersigned is authorized to draw.

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Respectfully submitted,

By 

Patricia Smink Rogowski

Registration No.: 33,791

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

P.O. Box 2207

Wilmington, Delaware 19899

Attorney for Applicant